

**REMARKS/ARGUMENTS**

Reconsideration and allowance of this application are respectfully requested. Currently, claims 2-8, 10 and 17-21 are pending in this application. Claim 9 has been canceled.

**Rejections Under 35 U.S.C. § 103:**

Claims 2-3, 8-10 and 17-21 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over the four-way combination of Mikelaitis in view of Christensen et al (U.S. '666, hereinafter "Christensen") and further in view of Mori (EP 0606079) and Yuasa (US '238).

In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. Applicant submits that the four-way combination of Mikelaitis, Christensen, Mori and Yuasa fails to teach or suggest all of the claim limitations. For example, the combination fails to teach or suggest "setting up a call between the communications terminals using a call control protocol and network address selected from the plurality of different call control protocols and network addresses identified in the call control capability data (emphasis added)," as required by independent claim 2 and its dependents. Independent claims 8, 10 and 17-21 require similar features.

None of Mikelaitis, Christensen, Mori and Yuasa describes exchanging or receiving different call control protocols and network addresses and then setting

up the ultimate call by selecting one of the different call control protocols and one of the different network addresses<sup>1</sup>.

Due at least in part to this claimed feature, the present invention makes the most of a plurality of different connection possibilities and thus enables a single device to efficiently operate to take advantage of multiple different networks and network technologies requiring different addresses (e.g., ATM and IP, or PSTN telephone and VOIP internet call connections). The present invention provides these benefits by providing an initial exchange of information performed by the devices which informs a calling device of the various possible connection options (different network addresses and call control protocols) supported by the device to be called. The calling device then selects the most appropriate option and sets up the connection. None of the cited references addresses the problems associated with fully utilizing the different multi-functional ways in which terminal devices may communicate with each other, let alone providing the solution set forth by the present invention.

Section 4 (page 4) and Section 7(b) of the Office Action apparently alleges that Mikelaitis discloses exchanging call control capability data prior to initiating

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<sup>1</sup> Applicant notes that the International Preliminary Examination Report states the following:

“2.4) The combination of the features of dependent claim 2 is neither known from, nor rendered obvious by, the available prior art.

The step of exchanging call control capability data is carried out prior to initiating call set-up.

The advantage of exchanging this data at that time is that it is not necessarily to start or proceed with the setup of the call if a terminal has not the capability. The process of exchanging call control capability data is now independent of the call setup and improves therefore the flexibility of the method.”

call set-up. Applicant respectfully disagrees. Mikelaitis describes the operation of a single network, the ISDN network. In this network, to set up a call, a terminal must know the telephone number of the terminal which it wishes to contact. The terminal then sends a signaling message to the network informing it of the telephone number of the terminal it wishes to call as well as any other subsidiary information such as sophisticated bearer capabilities. Once the network has sufficient information to set up the call, it will then attempt to do so using the supplied destination telephone number. There is no exchange of plural call control protocols and/or plural network addresses for a respective (i.e. destination) terminal prior to call set up. Since Mikelaitis describes such ISDN call set-up procedures, one of ordinary skill in the art would not have motivated to modify the Mikelaitis system to include a step of exchanging call control capability data comprising a plurality of different call control protocols and network addresses -- one would always use the destination terminals telephone number to set up a connection.

In the view of the above, it is not surprising that none of the secondary, tertiary and/or fourth references remedies the above deficiency of Mikelaitis. For example, contrary to the Office Action's arguments in Section 7(b), Christensen is merely concerned with how to enable a PC to discover if a network to which it is attached can support a full duplex mode of communication or only a half-duplex mode of communication. Christensen is not at all concerned with how to set up a

communication with another terminal. Indeed, Christensen does not discuss any interaction between terminals, but only interactions between a terminal and a network to which it is connected.

Mori discloses how to enable multiple LANs to be connected together using an ATM network (or similar network) such that the use of the ATM protocol is transparent to the terminals. This is essentially accomplished by having the network perform address and header translation at the ingress and egress to the ATM network. When one terminal wishes to contact another terminal, it specifies a single network address and a single protocol type of the destination terminal. Mori therefore in no way relates to determining the best address and call protocol to use out of a plurality of possible options to connect to a particular given terminal. Mori thus fails to remedy the deficiencies of Mikelaitis because it assumes that a destination terminal to be contacted will have a single known address (e.g., a MAC address) which will be used by the source terminal to communicate with it. There is thus no exchange of call control capability data which identifies for each respective terminal a plurality of different call control protocols and different network addresses. Again, a single call control protocol and network address is identified for each respective terminal.

Yuasa relates to providing "virtual" LANs so that PCs connected to different physical LANs can behave as though they were connected to a single LAN even though they are not. This is achieved by having the network perform

address translation in a manner which is transparent to the PC terminals. Yuasa is in no way concerned in determining the best address and call control protocol to use out of a plurality of possible options to connect to a particular given terminal. Yuasa thus fails to remedy the deficiencies of Mikelaitis (and/or Mori or Christensen) because a terminal wishing to send data to another terminal does so using a single destination address and call control protocol. The fact that this may be carried within packets of lower level protocols for transporting the data across multiple hops over the network (which protocols may add further address and protocol information for different sections of the journey over the network) would in no way lead one of ordinary skill in the art to modify the set up of Mikelaitis to arrive at the present invention. These addresses for use by different levels of protocol in traversing the network are not optional, but are compulsory in order to traverse the network successfully.

The Office Action's allegation that "The suggestion to do so [i.e., to modify Mikelaitis to arrive at the present invention] would have been to match the traffic types and quality of service requirements" is unfounded since Mikelaitis is able to match traffic types and QOS requirements of the call without exchanging or receiving different call control protocols and network addresses prior to setting up the ultimate call and selecting one of the different call control protocols and one of the different network addresses because the ISDN is a sophisticated network

which allows different types of calls within different QOS requirements to be made already.

Section 7 of the Office Action mischaracterizes the Applicant's previous arguments. Exemplary embodiments of the present invention relate to a first terminal exchanging or receiving different call control protocols and different network addresses in respect of a second terminal with the second terminal, and then setting up the ultimate call by the first terminal selecting one of the call control protocols and network addresses in respect of the second terminal. In accordance with the present invention, before a call is set up between two terminals, the two terminals first negotiate with one another to identify an optimum call control protocol and corresponding network address from a plurality of different options, and then they set up the call.

In contrast, Mikelaitis discloses "once **the network** is able to proceed with the call..." (i.e., the calling terminal sends some information to the network including a single network address of the destination terminal (its telephone number)), then the network tries to set up the call by communicating with the destination terminal. Section 5.5 of Mikelaitis specifies that once the D-channel signaling dialogue results in a network wide connection for user traffic [i.e., once the call has been set up] the customer has two "parallel" communications channels [the main call channel (a 64kbs "B" channel) and the D-channel]. This has

absolutely no connection with negotiation between the terminals before setting up a connection.

Section 5.4.2 of Mikelaitis discloses "Compatibility Checking". While this section describes how a call terminal may be sent information by the calling terminal specifying various call requirements specified by the calling terminal, the called terminal does not supply any call capability data to the calling party. There is no form of negotiation. Moreover, there are no options. That is, only a single call control protocol is specified.

As described above, Christensen is concerned exclusively with terminal to network communications and thus the interactions described by Christensen are not at all relevant to the present invention. As also described above, Mori does not disclose one terminal sending another terminal call control capability data which identifies for each respective terminal a plurality of different call control protocols and different network addresses. Instead, Mori discloses sending in signaling packets in a single call control protocol and network address (source address) in respect of the source terminal and a single call control protocol and network address (destination address) in respect of the destination terminal. With respect to the teachings of Yuasa, it is clear that for a terminal to send data to another terminal in a network it specifies in respect of a single connection, only a single protocol and network address which may then be translated in the network. There is no discussion anywhere of a terminal sending to another terminal a plurality of

different call control protocols and different network addresses by which the calling terminal may attempt to contact the terminal as required by the present invention.

Accordingly, Applicant submits that claims 2-3, 8-10 and 17-21 are not “obvious” over Mikelaitis in view of Christensen and further in view of Mori and Yuasa, respectfully requests that the rejection of these claims under 35 U.S.C. §103 be withdrawn.

Claims 4 and 5 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over “Mikelaitis, Christensen, Mori and Yuasa, as applied to claim 2 above, and further in view of Katsube.” Claims 6 and 7 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over “Mikelaitis and Christensen, and Mori as applied to claim 3 above, and further in view of Markgraf et al.” The rejection of claims 6 and 7 is not completely understood by Applicant since the rejection applied to claim 3 is over the four-way combination of Mikelaitis, Christensen, Mori and Yuasa, not just Mikelaitis, Christensen and Mori. Nevertheless, since claims 4-5 and 6-7 depend at least indirectly from independent claim 2, Applicant submits that the comments made above with respect to claim 2 apply equally to these claims. Neither Katsube nor Markgraf remedies the above deficiencies of the four-way combination of Mikelaitis, Christensen, Mori and Yuasa. Applicant therefore respectfully requests that the rejection of claims 4-5 and 6-7 under 35 U.S.C. § 103 be withdrawn.



***BEDDUS et al.***  
***Application No. 09/530,785***  
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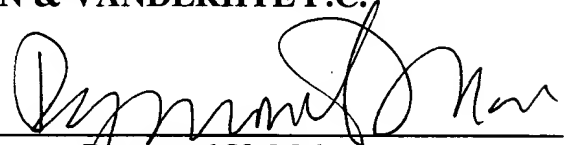
**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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